

Report No. 114.

HOUSE OF REPRESENTATIVES.

WILLIAM T. G. MORTON—SULPHURIC ETHER.

FEBRUARY 23, 1849.

Laid upon the table, and ordered to be printed.

Dr. EDWARDS, from the Select Committee to whom the subject was referred, made the following

REPORT:

The Select Committee, to whom was referred the memorial of William T. G. Morton, asking compensation from Congress for the discovery of the anæsthetic or pain-subduing property of sulphuric ether, report:

That the following memorial was presented to the House on January 19, 1849, and was on the next day referred to the committee:

To the honorable the Senate and House of Representatives of the United States of America in Congress assembled:

Your petitioner, William T. G. Morton, respectfully represents, That he is a dentist in the city of Boston; that in the year 1846, and for several years previously thereto, he was in the prosperous and lucrative practice of his profession in that city, his actual annual receipts from his business, as his accounts will show, being between nine and ten thousand dollars.

That his occupation obliging him to see frequent instances of physical suffering, he was, as many others had been, induced to consider whether there might not be some means of alleviating such sufferings, and rendering operations less painful to those obliged to submit to them.

That, in pursuance of this object, he examined such known and approved treatises on materia medica as he could obtain, and consulted with the most learned persons to whom he could get access, but found the scientific knowledge on this subject wholly vague and unsatisfactory; that, nevertheless, he continued the investigation, and, gathering all the information he could, was led, step by step, after many examinations and experiments, to the belief that sulphuric ether, properly administered, might produce partial if not total insensibility; that, desirous to verify his belief by actual experiment upon the human system, and finding the idea prevalent among the scientific, that any application which would be productive of such effects would be injurious to health, if not fatal to life, he made the experiment upon himself, and, after an uncon-

sciousness of several minutes, awoke with no injury to health; that thus confirmed in his views, he proceeded, against much opposition and amidst many obstacles, until at last, in the presence of the most eminent surgeons and physicians of a public institution, and on a public occasion, he was enabled to manifest the truth of his conception, and exhibited a patient submitting to an amputation of a leg, without the slightest sentiment of pain, or the least injury to general health, in consequence of the application which produced this insensibility.

Your petitioner would further state, that, interested in the investigations which resulted in this discovery, he devoted himself exclusively to them, to the neglect of his ordinary and regular business, in consequence of which his practice became almost entirely lost to him; that his experiments and the various arrangements and preparations which the calls upon him from all parts of the country, as well as from foreign countries, obliged him to make, and which a belief in the validity of his patent induced him to suppose would not be unrequited, were very expensive, and involved him deeply in debt; that the patents which he obtained, though legally valid, were in fact wholly valueless in a pecuniary sense, and that he finds himself now, after all his outlays, exertions, and endeavors, with his practice greatly abridged, his reputation injured by the efforts of those who opposed, with great warmth, the introduction of his discovery; his health impaired by mental anxiety and over-exertion; himself reduced to poverty, embarrassment, and pecuniary distress, and probably the only being living who has been a sufferer from a discovery which enables the world to rejoice in an exemption from many sufferings.

Your petitioner states only facts which are well and widely known. He therefore respectfully prays your honorable body, that, considering the nature of the discovery, the benefit which it confers, and must continue to confer so long as nature lasts, upon humanity; the price at which your petitioner effected it, in the serious injury to his business; the detriment to his health; the entire absence of any remuneration from the privileges under his patent, and that it is of direct benefit to the government, by its use in the army and navy, you should grant him such relief as might seem to you sufficient to restore him at least to that position in which he was before he made known to the world a discovery which enables man to undergo, without the sense of pain, the severest physical trials to which human nature is subject.

And your petitioner will ever pray, &c.

WM. T. G. MORTON.

The day on which the above memorial was presented to the committee, the chairman addressed the following letter to Dr. Charles T. Jackson, of Boston, knowing that a controversy had long existed between him and the memorialist in relation to the discovery claimed:

HOUSE OF REPRESENTATIVES,
January 20, 1849.

SIR: I write to inform you that a memorial of Wm. T. G. Morton was presented to the House of Representatives, and referred to a committee on the patenting of compound medicines, of which I am chairman. The

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memorialist claims the discovery and practical application of sulphuric ether in producing anæsthesia, and asks remuneration from Congress. I have long known of a controversy as to this discovery, and am aware that you claim this as yours. I shall with pleasure receive any communications on this subject.

Your obedient servant,

T. O. EDWARDS,
Chairman, &c.

Dr. CHARLES T. JACKSON.

The following reply was received :

Boston, January 23, 1849.

DEAR SIR : I have the honor of acknowledging the receipt of your favor of 20th instant, in relation to the claims set up by Wm. T. G. Morton to the discovery of etherization, and most heartily thank you for this prompt and friendly intelligence, and shall very speedily send a remonstrance from the physicians and citizens generally of Boston. You will very much oblige me by waiting a few days before bringing up the subject, for we are taken by surprise in this matter, the movements of Morton and his friends having been concealed and unknown to us. The moment I heard that Morton had gone to Washington with some scheme of gaining notice from government, I wrote you a letter, having learned that you were interested in the protection of our profession from quackery, and that as a physician you would be likely to interest yourself in this subject. I was very glad to learn by your letter that you were chairman of the committee before whom the question of the discovery of etherization would come. I am satisfied that ample proof will be laid before you, showing that Morton was in no sense the discoverer of etherization.

I will visit you in person before long, and then shall be able to explain everything that may not be perfectly clear.

Were it not that my urgent duties as United States geologist required all my time, I should rejoice in being able to lay my case before Congress, knowing that there is much more facility in arriving at the truth, when both sides are examined, where there is not so much local feeling as exists in the vicinity of our hospital.

I shall deem it necessary, for the cause of truth, science, and for the credit of our profession, to lay my case fairly before you ; and you shall soon have all the documents we can furnish. I now send you Dr. Gay's statement, which please accept.

With the highest regard, I have the honor to be, your obedient servant,
CHARLES T. JACKSON,

31 Somerset st., Boston.

Hon. THOMAS O. EDWARDS.

Professor Silliman, Professor Hare, Professor Gibson, and all our men of science, who have examined the evidence, decide in my favor.

C. T. J.

The following remonstrance was presented to the House and referred to the committee :

To the Senate and House of Representatives of the United States in Congress assembled :

The undersigned begs leave to represent that, whereas a memorial has been presented to the Congress of the United States by William Thomas Green Morton, of the city of Boston, in the State of Massachusetts, representing that in the year of our Lord one thousand eight hundred and forty-six, he, the said Morton, made, in the city of Boston aforesaid, a discovery by which the human body is rendered insensible to pain during surgical operations, and during other serious and violent affections, by means of the vapor of sulphuric ether inhaled into the lungs—praying, also, for a national remuneration or reward for making the said discovery, and for its practical application : and whereas the said discovery was made by the undersigned, without the knowledge of the said Morton, and without the co-operation or assistance of any person whomsoever, and was communicated by the undersigned to various persons, from the spring and autumn of eighteen hundred and forty-two to the thirtieth day of September, eighteen hundred and forty-six inclusive, and on the said thirtieth day of September was also communicated by the undersigned to the said Morton, he, the said Morton, being, previous to the said communication of the discovery to him, wholly ignorant of the anæsthetic properties and effects of sulphuric ether aforesaid : and whereas the undersigned did also, on the thirtieth day of September, eighteen hundred and forty-six, devise and commit to the said Morton the performance of an experiment for the verification of the said discovery, so far as the extracting of teeth is concerned : and whereas the said Morton, acting in strict conformity with the instructions, and upon the exclusive and expressly-assumed responsibility of the undersigned, did, to the extent of a painless extraction of a tooth, successfully verify the said discovery : and whereas the undersigned did, shortly afterwards, cause the discovery to be further verified by the surgeons of the Massachusetts General Hospital, in the first painless capital operation ever performed under the influence of the ether vapor : and whereas the signature of the undersigned to certain letters patent, taken out in the joint names of the undersigned and of the said Morton, declaring the discovery to be their joint invention, was obtained through the representation of Robert H. Eddy, esq., of said Boston, the solicitor by whom the said letters patent were procured, and co-partner with the said Morton in the profits thereof, that the undersigned “might lose all his credit as a discoverer,” if he did not consent to become a party to the said letters patent : and whereas the undersigned, after being instructed by eminent legal counsel, that the said Morton had not rendered himself in any sense a joint discoverer, by reason of the painless extraction of a tooth as aforesaid, and that he had not thereby acquired any right, either to an exclusive patent or to participation with the undersigned in any patent upon the said discovery, did publicly repudiate all connexion with the said letters patent, and did refuse any part of the proceeds arising from the sale of licenses under the same, and did, as he originally intended, give the discovery freely to the world, to the full extent of his interest ; evidence of

all which is herewith submitted. The undersigned does, therefore, earnestly remonstrate against the memorial of the said Morton, and prays that his petition may not be granted, and that there may not be, on the part of the Congress of the United States, any recognition whatever of his claims to the said discovery.

CHARLES T. JACKSON.

WASHINGTON, D. C., *January 29, 1849.*

Dr. Jackson and Dr. Morton each appeared before the committee on several occasions, and Mr. J. L. Lord, attorney for Dr. Jackson, presented the testimony in his favor. Various pamphlets and numerous letters, together with numerous conflicting and irrelevant affidavits, were referred to us; and, after an examination of more than a month, and a patient and careful weighing of all the facts as presented, we report that:

On the 12th day of November, 1846, a patent was issued by the Department of State to Dr. Wm. T. G. Morton, for a new and useful improvement in surgical operations, which consists in rendering the patient insensible to pain, by the inhalation of the vapor of sulphuric ether.

The interest of Dr. Jackson in the patent was previously assigned to Dr. Morton, who now brings it before Congress, with his memorial, and offers to surrender it. He asks from Congress some consideration for the valuable boon which he claims to have conferred upon his country and the world, and remuneration for his own personal sacrifices in making the discovery. And he avers that he himself is the sole discoverer, aided only by the current knowledge of the day, which he derived from books, and from conversation with Dr. Jackson and other scientific men. Doctor Jackson, on his part, denies that Dr. Morton is the author of the discovery; but claims the whole merit as his own, and avers that in the experiments made and operations performed by Dr. Morton, testing the truth and value of the discovery, and bringing it before the world, Dr. Morton acted as agent, and that all was done by his special directions, and on his personal and professional responsibility. The contending parties have presented to the public their respective statements, and have adduced much evidence in their support; all of which your committee have felt it their duty carefully to examine and consider.

The specifications which accompany the patent show what the contending parties admit to have been known on the subject prior to alleged discovery, and also what they claim as exclusively their own contribution to the existing mass of human knowledge. It is sufficient to refer to the following clause in the specification: "It has been known that the vapors of some, if not all these chemical distillations, particularly those of sulphuric ether, when breathed or introduced into the lungs of an animal, have produced a peculiar effect upon its nervous system, one which has been supposed to be analagous to what is usually termed intoxication. It has never (to our knowledge) been known until our discovery, that the inhalation of such vapors (particularly those of sulphuric ether) would produce insensibility to pain, or such a state of quiet of nervous action, as to render a person or animal incapable, to a great extent, if not entirely, of experiencing pain, while under the action

of the knife or other instrument of operation of a surgeon, calculated to produce pain. This is our discovery."

In addition to this, the vapor of ether for the last half century has been known as a nepenthe both in Europe and America, and has been inhaled, for the relief of inflammations, spasms, and the effect produced by the inhalation of chlorine gas. Sir Humphrey Davy long ago suggested that the inhalation of a gas (the nitrous oxide) might be used to prevent pain in surgical operations; and the inhalation of it was publicly tried in a dental operation, but without success, by Dr. Horace Wells, in Boston, in 1844, in the presence of many persons, and Dr. Morton aided in the experiment.

In July, 1847, after the right to the discovery had become a matter of contest, Dr. Morton drew up a narrative in the form of a memorial to the Academy of Sciences at Paris, which was, in the autumn of the same year, presented by M. Arago, in which he gives a detailed statement of what he claims as his discovery, and the steps by which he arrived at his consummation. In this he states that in the summer of 1844, he was a student of Dr. Jackson and a boarder in his family. He details a conversation in which Dr. Jackson explained the well known effects of sulphuric ether on the nervous system, when taken by inhalation, and adds, that Dr. Jackson, in the same conversation, said that he had sometimes used ether as a local application, to relieve pain in the teeth, and recommended it to him for that purpose, and afterwards sent him a vial of highly rectified chloric ether which he subsequently used.

This conversation with Dr. Jackson, the effect produced by the use of ether, directly applied to the teeth, in deadening pain, the experiment of Dr. Horace Wells, in the following winter, with nitrous oxide, in which he assisted, and his subsequent reading, which now took a decided turn, directed his mind to the subject, and led to further experiments. He gives the necessities of the profession as the cause which urged him on in the path of discovery. He details several attempts in the summer of 1846, none of which were entirely successful, to produce insensibility to pain by the inhalation of ether, and various efforts to provide some apparatus from which it might be conveniently inhaled. At last, on the 30th of September, he again called on Dr. Jackson for the purpose of obtaining further information as to the preparation and use of the ether, and at the same time studious to conceal the object which he had in view, lest Dr. Jackson should turn his thoughts in the same direction, and anticipate him in the discovery. He states a conversation with Dr. Jackson on that day, opened on his part in a manner most likely to cover his real purpose, and at the same time elicit the information desired. He says his declared purpose was to get a refractory patient in his power, so that he could operate, and that he said nothing about performing the operation without pain. He first proposed to act on the imagination of the patient, merely by administering atmospheric air from a gas bag. This Dr. Jackson condemned; spoke of Dr. Wells and his nitrous oxide with derision, on which Dr. Morton asked him why he could not use the sulphuric ether. This Dr. Jackson at once approved; spoke of the stupefying effects of the sulphuric ether, and of the students taking it at Cambridge, and said that the patient would be dull and stupified, so that the operator could do what he pleased with him, and he would not be able to help himself; and, after some conversation about the prepara-

tion of ether, and directions as to the shop at which the best could be had, Dr. Jackson gave him a flask with a glass tube with which to administer it, and they parted. Dr. Morton states that he procured the ether, went to his office, locked himself up, and tried its effect on himself; and afterwards on the same day extracted a tooth without *pain* or even *consciousness*, from a patient, whom he had put under its influence. And that, in order to bring out the discovery, he applied to surgeons of the hospital to suffer it to be tried in some surgical operations, which they consented to do.

Dr. Jackson denies the truth of this statement, thus far, in all its material parts. He denies that Dr. Morton, prior to their interview on the 30th of September, 1846, had any knowledge of sulphuric ether, or its effects on the nervous system. That he was, prior to that time, in pursuit of any discovery to prevent pain in dental operations, or that he had made any experiments whatever tending to that object; and he avers that the operation of the 30th of September was performed by Dr. Morton as his *agent*, by his direction, and on his sole responsibility. That, in other words he was the actor and Dr. Morton his instrument, and that such also was the case in the application to the surgeons of the hospital, and the successful experiments there tried in sundry operations. On these questions much evidence is adduced, and on their determination rests the whole merit of the discovery.

To prove, amongst other matters, that Dr. Morton had no knowledge of sulphuric ether prior to September 30th, Dr. Jackson takes the testimony of two persons—George O. Barnes and John McIntire—who were his students in chemistry and present at the interview. Barnes details a conversation about the use of atmospheric air to operate upon the imagination of the patient, which Dr. Jackson condemned; says that nitrous oxide was named, but not sulphuric ether, when Dr. Jackson said, "Now, Morton, I can tell you something that will produce a real effect. Go to Burnett, the apothecary, and get some very strong sulphuric ether—the stronger the better; *spatter* it on your handkerchief; put it to your patient's mouth; take care that it be well inhaled, and in a minute or two perfect insensibility will be produced." "Sulphuric ether," said Morton, "what is that? *Is it a gas?*"

It will be remarked that the witness here professes to speak with perfect accuracy, giving this part of the conversation in its order in the form of a dialogue; but if he be entirely correct, it involves a singular absurdity. Dr. Jackson directs that the ether shall be administered by *spattering* it on a handkerchief, on which Dr. Morton asks him, "Is it gas?" as if gas could be spattered on a handkerchief and then administered to a patient. It is possible, however, that the very language put in the mouths of the interlocutors was, in fact, used; but if so, Dr. Morton could not have asked the question, "*Is it gas?*" in *ignorance*, for the fact that it was a liquid was explained to him in the very directions of its use; but it must have been to disguise his knowledge, and with it his purpose.

The statement of James McIntyre, the other witness, is less positive and more consistent with probability. After stating the conversation about the atmospheric air and the nitrous oxide, he says:

"As Morton was going away, Dr. Jackson told him that he could tell him something that would make the patient insensible, and then he

could do what he had a mind to with him; Morton asked what it was; Dr. Jackson then told him to go to Burnett's, and get some pure sulphuric ether, and *pour* it on a handkerchief, and let her inhale it. Morton asked what sulphuric ether was? what kind of looking stuff it was? I stayed in the front room while Morton and Dr. Jackson went to look at the ether. From Morton's questions about the ether, I am satisfied he knew nothing about its properties or nature."

There is no inherent difficulty in this statement, and that Mr. Barnes is incorrect is rendered the more probable from another consideration. If, after Dr. Jackson had directed Morton to go to a drug store and get sulphuric ether, and administer it by *sprinkling* or *pouring* it on a handkerchief, Morton had asked if it was *gas*, how could the absurdity have escaped the observation of the students in chemistry? Would the two young men have failed to make it a subject of ridicule, in conversation with each other, so that it would have been impressed on the memory of both? But the witnesses concur in this, that at the time of that conversation, Dr. Morton had, or pretended to have, no knowledge of sulphuric ether, or its effects upon the nervous system.

This does not militate against the general effect of the statement of Dr. Morton. He went, as he says, to Dr. Jackson to obtain from him certain information; but at the same time anxious to conceal from him the object of his pursuit, being fearful lest Dr. Jackson might anticipate him in bringing the discovery to perfection. We deal with this matter as a question of facts, not of words, and do not decide whether Dr. Morton might, consistently with the obligations which trust imposes, use artificial means to conceal a mental conception which he did not wish to divulge. We believe, however, where a person has a right to his secret, and is under no obligations to disclose it, a direct denial of that which was fact, for the purpose of such concealment, has not been visited with strong moral censure. We would instance the case of Walter Scott at the table of George IV., when toasted by his majesty as the author of *Waverley*, declared he was *not* the author. But as to the fact of Mr. Morton's knowledge.

The statement of Theodore Metcalf, a gentleman of undisputed veracity, shows that as early as July 6th, 1846, Dr. Morton talked and thought of sulphuric ether; had been informed of what was then currently known in the scientific world as to its effects on the nervous system; that nitrous oxide was spoken of by him, and the unsuccessful experiment made by Dr. Wells. Dr. Morton had in his possession at this time a phial of sulphuric ether, which Mr. Metcalf smelled and examined; so that after July 6th, 1846, Dr. Morton could not but have known, until he forgot his knowledge, "what kind of stuff" sulphuric ether was, and generally something of its application and effects. There is much evidence corroborating that of Mr. Metcalf on this point, which will be considered hereafter. Suffice it to say, that we think Dr. Morton's knowledge, to this extent, well established, and we think it equally clear that, in his conversation with Dr. Jackson, in the presence of his students, he used artifice to conceal his knowledge. But did Dr. Morton, prior to the 30th September, 1846, engage in the attempted discovery of some agent to prevent pain in dental operations? And did it occur to him to try the vapor of sulphuric ether as such agent? This is also affirmed on the one side, and denied on the other.

The testimony of Francis Whitman goes to this point. He says: "One day, I think it was previously to July, 1846, Dr. Morton, in speaking of improvements he had made in his profession, and of some one improvement in particular, said if he could only extract them without pain, 'he would make a stir.' I replied I hardly thought it could be done. He said he believed it could, and that he would find out something yet to accomplish his purpose." "Some time in July last he spoke of having patients come in at one door, having all their teeth extracted, and without knowing it, and then going into the next room, and having a full set put in." He adds, "that Dr. Morton came into the office one day in great glee, exclaiming he had found it, and that he could extract teeth without pain."

There is nothing in the case to cast a shade over the testimony of this witness. His statement involves no contradiction or improbability. He speaks of matters which would be likely to make a distinct impression at the time; therefore your committee could not refuse him credence, even if he were uncorroborated; but this is by no means the case. Dr. Granville G. Hayden testifies that Dr. Morton applied to him about the last of June, 1846, and desired to make some arrangements that would relieve him from the cares of his office, as he had an idea in his head connected with dentistry, which he thought would be one of the greatest things ever known, and that he wished to give all his time to it's development. He at first declined to state its nature, but at length told Dr. Hayden that it was something he had discovered which would enable him to extract teeth without pain; said he had already tried its effects upon a dog and described its operation. He said it was not nitrous oxide, and requested Dr. Hayden to say nothing about the matter. This contract with Dr. Hayden was reduced to writing on the 30th of June, 1846, as appears by the statement of Richard H. Dana, jr., the counsel who drew the instrument; and at the time he was preparing it Dr. Morton told him that he was in progress of a discovery which, if successful, would revolutionize the practice of dentistry.

In the month of August he told Dr. Hayden that his agent was sulphuric ether, taken by inhalation; said he had inhaled it himself, and tried to get three young men in his office to inhale it. He afterwards spoke of ill success and discouragement in the use of ether, and Dr. Hayden suggested that he should consult a chemist on the subject.

William P. Leavitt and Thomas R. Spear, jr., who were students in the office, testify to the purchase of sulphuric ether for Dr. Morton in July and August; that he prevailed on them to inhale the ether, and that he offered them a reward if they would find some one who would consent to have a tooth extracted under its influence; and that, after Dr. Hayden came, Dr. Morton seemed wholly absorbed with his experiments; that he had bottles and India rubber bags in a small room in his office, in which room he frequently locked himself up.

Joseph M. Weightman, a gentleman of very high character, states,* that in the summer of 1846, Dr. Morton applied to him for information upon increasing the security of artificial teeth by atmospheric pressure; a short time after he stated he had abandoned his views which he found were erroneous; and was then engaged in something of much greater

* Mr. Weightman has recently made affidavit of these facts.

importance in his profession. "He then wished me to show him bags of India rubber cloth made for retaining gas, and inquired whether it would do to put sulphuric ether in them." It is very clearly shown that these interviews occurred prior to the conversation with Dr. Jackson, on the 30th of September, 1846; nor is the mass of evidence above referred to weakened in its force, so far as it bears on the points now under consideration by the opposing testimony. This consists of statements alleged to have been made by Dr. Morton, attributing the discovery to Dr. Jackson; statements that he had never inhaled the ether, and statements on the part of Spear and Leavitt, that they inhaled the ether, for the first time, after the 30th of September, 1846. Generally this is a species of evidence little to be relied upon, less in a heated controversy like this, in which the community participate, than in ordinary cases; but we will refer to this more especially by and by, when we come to consider the several depositions. But in no wise can evidence like this weigh against a chain of facts and circumstances proved, as in this case, by the testimony of many disconnected witnesses. There are no contemporaneous facts or declarations stated by the rebutting witnesses on this branch of the case except by Don P. Wilson, who says he was *in and out* of Morton's office quite frequently during the summer and the month of September, 1846; never saw sulphuric ether there; never heard Morton speak of it, that he can remember; never perceived its odor about the clothes of Morton or otherwise, and thinks it could not have been used in the office without his having perceived its odor. He says that, during the summer of 1846, he often heard Morton speak of a new discovery which he was about to publish to the world; and which, to use his own words, "would revolutionize the whole practice of dentistry, and secure to him a fortune;" but he never hesitated to tell me and others, that "it consisted in a new preparation for filling teeth, and a new mode of making teeth, and setting them to plate." This was Morton's great hobby during the summer of 1846, and during the month of September, the same year.

And John E. Hunt, whose statement on those subjects is the same with that of Wilson, except that he says he was "connected with the office in the summer of 1846"—how connected he does not say—but that he "entered the office early in the month of November of that year"—and was assistant dentist. Now it is sufficiently apparent that this discovery of which Dr. Morton did not hesitate to tell publicly to these young men "and others," could not be the one which he was at the same time carefully concealing; and for the rest, the whole amount of this evidence is, that these persons, who occasionally visited the office of Dr. Morton in the summer of 1846, did not discover what he took especial pains to conceal. The affidavit of William A. Brewer, that the house to which he belonged sold nothing but the best sulphuric ether, is no doubt true, according to the opinion of the witness; but it is hardly possible for him to know that none of an inferior quality left the shop—even if the best only were purchased or prepared, as it is an article greatly subject to deterioration by time, especially if the vessel containing it be often uncorked or remain open for a length of time, in which case the pure volatile ether flies off in vapor, and the dregs remain. Hence the chemical analysis had of the ether remaining in the

demijohn does, in our judgment, fall far short of proving its true quality when purchased at the druggist's.

But, on the whole, the evidence thus far leaves no doubt on the minds of your committee that, prior to his interview with Dr. Jackson, on the 30th of September, 1846, Dr. Morton was possessed of the idea that the inhalation of sulphuric ether would render a patient insensible to pain during a dental operation; that his time and attention were for several months previously devoted to the bringing about this result; and that he called on Dr. Jackson that day to obtain information by which he could obviate certain difficulties which he encountered in his experiments, and that he disguised his knowledge and purpose from Dr. Jackson, lest he should penetrate his secret and anticipate his discovery. And as to that interview of the two witnesses present, one, James McIntire, gives an account of the conversation, agreeing in all matters of substance with the account of Dr. Morton, except only that, according to him, Dr. Jackson, and not Dr. Morton, first spoke of the use of ether.

George O. Barnes said that Dr. Jackson, after directing Dr. Morton how to give the ether, said "that the patient, after breathing a dozen breaths, would fall back insensible, and you can do with them as you please *without their knowing anything about it, or feeling any pain*; so that you can take out their teeth at your leisure." This suggestion as to *insensibility to pain* had become, as was no doubt supposed, the very point in issue. It was a most striking remark, and if in truth it was made, was most likely to impress both the young men present; both state the conversation in its immediate context, so that the statement of this impression by one and its omission by the other amounts to a discrepancy which greatly weakens the force of the affirmative statements. We have already shown a still more striking discrepancy between these witnesses in the question attributed by Barnes to Morton—"is it a gas?"—after Mr. Morton had been told to get it from an apothecary's and *putter* it on a handkerchief; and we are well satisfied in this particular as in that, it is more safe to rely on the evidence of McIntire.

The evidence, then, amounts to this: Dr. Morton came into Dr. Jackson's office, having in his hand a gas bag, with which he proposed to operate on the imagination of a refractory patient by administering to her atmospheric air. Dr. Jackson ridiculed the idea. Nitrous oxide was spoken of; Dr. Jackson objected to that, saying to Mr. Morton that if he attempted to make it, it would become nitric oxide. He then suggested sulphuric ether, and said it would make the patient insensible, and Morton could do what he pleased with her. This conversation, it will be noted, all took place about a refractory patient; the object considered was the mode of bringing a nervous patient to a condition in which she could be operated upon, not in which she would feel no pain from the operation. Mr. McIntire says not one word about pain or its absence in the operation—but that the operator could do what he pleased with the patient under the influence of sulphuric ether. If this conclusion be correct, the information given by Dr. Jackson to Dr. Morton was no more than the current knowledge of the age—no more than he would have been told by any scientific man, or than he would have read in books which treat of chemistry and medicine; and if it differed in anything from the general opinion of scientific men, it was in a stronger than ordinary assurance that the vapor was not injurious

to health. At the same time, it is very clear to your committee that Dr. Morton relied more implicitly on information which he obtained from Dr. Jackson than from any other source; and that the information was given with the unhesitating confidence arising from a consciousness of high scientific attainments.

This view of the subject awards to Dr. Jackson the merit of greatly aiding by his advice and instructions in the discovery. He did not himself produce the result, which was new; or by his information carry knowledge in that direction, beyond the point it had already reached. He was a safe and reliable guide to its then utmost limit in that direction—the Calpe and Abyla of scientific research—but left the sea beyond to be explored by others. Nor is the result changed as to the merit of the discovery, if we take the testimony of Barnes instead of Melafire, as to what occurred at this conversation. On that hypothesis Dr. Jackson suggested to Dr. Morton, that his patient, under the influence of the vapor of sulph. ether, would be insensible to pain during his dental operations; but this was no new idea to Dr. Morton. He had thought and spoken of it long before. He had for months given himself up to its consideration, and he had talked of it to a host of witnesses referred to above. Some directly, some in ambiguous phrase; but so, as now, when the facts and their connexion and dependence are known, to leave no doubt of the object of his study and pursuit. Then, if on the 30th of September, 1846, Dr. Jackson told him that the vapor of sulph. ether would render his patients insensible to pain, he gave him no new information, for he was armed with no fact to show it. He gave a speculation of his own, an inference he had drawn from his scientific knowledge, but the idea was already in the mind of Dr. Morton; he had speculated on the same subject, and in the same direction. He had drawn the same inference from the same general knowledge, and he had tried an experiment on his own person, with a view of testing its correctness. It is the case of one man in the pursuit of a discovery, who has his mind fixed upon the object, and the mode of effecting it determined on, who consults with another who confirms and supports his previously entertained opinions.

Nor is it, in our opinion, at all material whether Dr. Jackson had or had not been long before impressed with the conviction that this great object could be effected by the same agent, and in the same manner in which it has been brought about. If he made the discovery he did not give it to the world. The case would have been different, if he had communicated the idea to Dr. Morton prior to his researches in the summer of 1846. But this is no where claimed by Dr. Jackson or averred by any of his witnesses.

It is, however, contended by Dr. Jackson, that in the administration of ether to his patient on the 30th September, and in the subsequent exhibition of it in the hospital, Dr. Morton acted as his agent merely; that he was in fact the experimenter as well as the discoverer, and the merit of success or the responsibility of failure rested on him. This position your committee will now proceed to examine.

This claim is not supported by the evidence which has been thus far considered; indeed, it bears strongly against it, and your committee can find no contemporary matter touching this point, except a statement of George O. Barnes, not yet commented upon. The witness, after stating

Dr. Jackson's efforts to overcome the scruples of Morton, says: "Indeed, Dr. Jackson urged the matter very earnestly and with perfect confidence, taking on himself the whole responsibility." Now, if this be a deduction, an inference from the conversation stated, it is of no value whatever, except to show a certain earnestness in the witness. If it be but a further declaration, it is unsupported by the testimony of McIntire; and, in a third important particular, differs from and goes beyond him. But the well attested conduct of the parties themselves, at the time of the transaction in which this agency is claimed to have been conferred and accepted, what is termed by lawyers the *res gestæ*, shows more clearly than everything else the true relation which they then bore to each other, and each of them to the subject matter in controversy.

Dr. Jackson claims that he had long had in his mind a conviction that the vapor of sulphuric ether could be inhaled without danger or injury to the patient, and that under its influence surgical operations could be performed without pain. All admit him to be a man of science, fully aware of the mighty value of such a discovery, and not at all indifferent to his own reputation in the scientific world. In this state of things we cannot conceive it possible that he could have remained inactive for years, waiting till chance should send him some one to bring out his great discovery, instead of proceeding himself by direct experiment. It is not at all disputed that Dr. Morton went to Dr. Jackson's shop that day uninvited; that *his* wants and not Dr. Jackson's wishes and purposes led to the conversation; that there was nothing of an especially confidential nature between them; and that what Dr. Jackson said to him, he said in the usual manner of public conversation, and not like a man who was engaging another to bring out a most important discovery to the world.

But take Dr. Morton to be just what Dr. Jackson and his two witnesses represent him to have been at the time of that conversation, was he the man whom Dr. Jackson would have trusted to represent him in a matter so deeply involving his character and his fame? Say it is Jackson's discovery, the experiment is his, *he* is responsible for the consequences. If it succeed, he has made the noblest contribution to surgical science which the century has witnessed; if it fail, the consequences might be most disastrous. Whom does he select to carry out this, the most important conception of his life or of the age? Let his two witnesses answer.

According to them, a man profoundly ignorant of the powerful medicinal agent which he was directed to employ, one who did not know what kind of "stuff" sulphuric ether was, and who wished to see it in order thus to test its qualities, is selected by one of the first scientific men of the age to conduct a delicate and dangerous experiment with this same sulphuric ether, on the success of which even more than reputation depended. If Dr. Jackson had dwelt upon the subject, conceived the discovery in his own mind, considered it with a view of making it known to the world and useful to mankind, he knew that much depended on the first public exhibition; and he also knew that it required science, prudence, and skill, to render the experiment successful, and prevent its becoming disastrous. Sulphuric ether would produce insensibility to pain; *too little* of it would make the experiment ineffectual, and bring the operator and his nostrum into ridicule; *too much*, or the proper

quantity, *unskillfully administered*, would produce asphyxia, probably death. Under these circumstances, how can your committee believe that Dr. Jackson would have trusted such a man as his witnesses represent Dr. Morton to be, with his first experiment upon his great discovery? Would it not have been inexcusable in him to have done so? Would it not have shown a recklessness of his own fame and the lives of his fellow-men?

Such a conclusion, your committee are satisfied, cannot be imputed to him with justice. Had Dr. Jackson made the discovery and felt that it was his, could he have failed to be at once aware of its vast importance, and the world-wide reputation it would give him, would he have trusted it for a moment in the hands of a man less skillful and scientific than himself? indeed, would he have entrusted it with any one? but would he not have himself seen that it was administered in a proper manner, and under proper conditions to make it safe and effectual? Would he not have stood by and watched the sinking pulse of his first subject, until insensibility was complete, and have been careful to withdraw it when he saw it was likely to endanger life, and thus done all that science and skill could do to avoid a failure or a catastrophe? But there was nothing of this. Having given the information which he did give in the conversation with Dr. Morton, he turned neither to the right nor left, nor troubled himself further on the subject, until he was advised by Dr. Morton that the experiment had been successful. He expresses no surprise, no emotion; it is an incident of the day—an occurrence. According to the testimony of Barnes, he advises Dr. Morton to try it in some capital operation in the hospital; does not say he will try it himself, which he might or ought to have done, if Morton had been his agent. He does not propose to get permission for Dr. Morton so to try it; though he well knew the application by himself, or in his name, would ensure the permission. He advises Dr. Morton to get permission, and try it in the hospital, and does not propose to be present, and in fact is not present when the trial is made, though the hospital was but five minutes' walk from his door. That operation was successfully performed, and another was noticed to take place the next day, about which Dr. Jackson gave himself no concern, and at which he was not present. The committee feel that his conduct during this time was wholly inconsistent with the fact that he recognised the discovery as his own, and that these were his experiments.

It is urged as a reason for his absence at the first operation in the hospital, that Dr. Morton did not inform him at what time it was to take place. As to this, there is no proof that he did or did not inform him; but surely, had Dr. Jackson felt the solicitude which the discoverer would naturally feel, he would have informed himself, and his daily associations naturally led him to the knowledge. On the other hand, after the successful operation of the 30th of September, and after Dr. Morton had seen his patient and ascertained that he had suffered no injury from the ether—elated with his success, he consulted Dr. Hayden as to the mode of bringing out the discovery, and suggested at once that he would introduce it into the hospital. A few days afterwards he told Dr. Hayden that Dr. Jackson would not countenance the discovery, and again said he would go to Dr. Warren and endeavor to have it introduced into the hospital. The fact that Dr. Jackson refused to give Dr. Morton a cer-

tificate that ether was harmless in its effects, or might be used with safety, is admitted by Dr. Jackson in his defence by the Messrs. Lord; but they say it proves nothing but Dr. Jackson's "unwillingness to figure in Dr. Morton's advertisements, and his prudence in refusing to make himself responsible for anything and everything Morton, in his ignorance, might do, with an agent liable to the most dangerous abuse."

This, if it stood alone, might be satisfactory; but one of the witnesses, Geo. O. Barnes, says that, on the 30th of September, Dr. Jackson employed Dr. Morton to use this very agent. He assured him it would "not do the least injury." He "urged the matter very earnestly, expressly taking on himself all the responsibility;" and it was on the 1st of October, the morning after the successful experiment, that Dr. Jackson refused to give a certificate "that ether was harmless in its effects," and yet, on this same day, the witness Barnes says, on being advised by Dr. Morton of the success of the operation, Dr. Jackson said to him: "You must go to Dr. Warren and get his permission to administer it in the Massachusetts general hospital, and, if possible, it should be on a capital operation." And he goes on to say that Morton strongly objected at first to going to the hospital; that everybody would smell the ether, and it would not be kept secret; but that, after learning something to disguise the order, he agreed to apply to the hospital.

We have already adverted to the fact that Dr. Morton, the very evening after the successful operation, suggested to Dr. Hayden that he would go to the hospital and get permission to try the ether there; that he went next morning to Dr. Jackson, and returned, saying Dr. Jackson would not give his countenance to the discovery, and it is admitted that Dr. Jackson refused him the certificate he wished for, and one of the reasons given is that he did not think him fit to be trusted. Is it then probable that he urged him to go to the hospital and there bring out his (Dr. Jackson's) great discovery? But James McIntire was also present on the 1st of October, when Dr. Morton returned and advised Dr. Jackson of the entire success of the experiment, and he says not a word of Dr. Jackson's proposing to Dr. Morton to try an experiment in the hospital. Your committee has already remarked in several other points of difference in the testimony of these two witnesses, and in each case as in this, they felt themselves constrained by the testimony of other witnesses and by the inherent character of the evidence to rely on the accuracy of McIntire rather than of Mr. Barnes, where these discrepancies occur.

Another difficulty in sustaining the position assumed by Dr. Jackson forcibly impresses itself upon your committee. According to this, on the 30th of September, Dr. Jackson entrusted Dr. Morton with his discovery, and not only suffered him, but "earnestly urged" him to use it, assuring him it was perfectly safe; Dr. Morton tried it on the same evening; his success was complete; he brought to Dr. Jackson the next morning conclusive evidence of all this, and Dr. Jackson refused him a certificate because he would not "make himself responsible for anything and everything Morton in his ignorance might do with an agent liable to the most dangerous abuse," while nothing is shown to shake Dr. Jackson's confidence in Dr. Morton since the previous day, or at all to change his opinion of him, except the triumphant success of the operation which he reported and proved. On the 16th of October, the first operation was performed in the hospital, at which, as we have already

shown, Dr. Jackson did not attend, and at which his name was not known. The second operation at the hospital took place on the 17th, Dr. Jackson taking no part in it by his presence or his counsel. Both operations were entirely successful, and both conducted on the part of Dr. Morton to the entire satisfaction of the surgeons of the hospital. But at this time Dr. Jackson's confidence in Dr. Morton, if he ever did confide in him, is wholly gone. He denies in the conversation with his neighbor and friend, Caleb Eddy, that under the influence of ether the flesh of a patient can be cut without pain; says Morton "is a reckless man for using it as he has; the chance is he will kill somebody yet;" and in the interval between the 30th of September and about the 23d of October, he declared that he did not care what Morton did with it, or how much Morton advertised, if his own name was not drawn in with it.

It would seem that as Dr. Morton acquired eclat by his constant success, as he continually and rapidly rose in the estimation of other scientific men, he as continually and as rapidly sunk in the estimation of Dr. Jackson. The evidence of Francis Whitman and Mr. Caleb Eddy show that, prior and up to the 23d October, Dr. Jackson spoke doubtfully of the effect of ether, and condemned its use; and there is no proof whatever that, within that time, he lent the slightest countenance to Dr. Morton to sustain the discovery, and all his remarks, except those stated by Dr. T. E. Hitchcock to have been made to him on the 2d and 3d of October, tend to create distrust and destroy confidence both in the operator and the agent used. His favorable mention of it to Dr. Keep occurred *after* the 26th of October, the actual date not fixed, and was accompanied with a strong general charge of ignorance and recklessness against Morton, who was then in the full tide of successful experiment. This state of facts is, in the opinion of your committee, wholly inconsistent with the assumption that Dr. Jackson was the discoverer; that he had employed Dr. Morton to bring out the discovery, and that the experiments of Morton were tried on the responsibility of Dr. Jackson.

On the 30th of September, the first successful operation took place. On the 1st of October, Dr. Morton applied to R. H. Eddy, agent for patents, to aid him in procuring a patent for the discovery. Mr. Eddy took the case into consideration, and did not see Dr. Morton again until the 21st. In the mean time Dr. Morton's experiments had been attended with the most flattering success. Two operations had been performed in the hospital to the entire satisfaction of the faculty, and the discovery had acquired a footing in the medical world; and prior to the 21st, but the precise day is not stated, Dr. Jackson had a conversation with Mr. Eddy, was informed of the application of Dr. Morton for a patent, and claimed that he had some connexion with Dr. Morton in making the discovery. He called on Dr. Morton on the 23d, and it was then arranged that Dr. Jackson was to have \$500 for the information he had given Dr. Morton, if ten per cent. on the proceeds of the patent would produce that amount.

This arrangement between the parties, settled by and between themselves in a private conference, proved by their subsequent conversation with Mr. Eddy, and not now denied, shows conclusively the view that each had of his respective participation in the discovery. It was between them both distinctly a business transaction—an affair of dollars

and cents, and as clearly Dr. Jackson called and introduced the conversation—not to assert his rights to the discovery—not to inquire as to its success, for of this public report had advised him—not to give any advice or caution as to its further use, but to claim a compensation in money for the advice and information he had given to Morton on the 30th of September; and \$500, if ten per cent. on the proceeds of the patent would produce it, was agreed upon as the sum to be paid for that information. This conversation and agreement is entirely consistent with the view we have thus far taken of the case, but it is wholly inexplicable on the ground assumed by Dr. Jackson. But the representations and advice of Mr. Eddy, the common friend of the parties, modified their arrangement. He represented to Dr. Morton, that Dr. Jackson, from having given him the information and advice spoken of on the 30th of September, was entitled to participate in the patent as a joint discoverer. That if he were not joined in the patent, the fact of his giving that information would be used to impeach the patent, and that if Dr. Jackson were joined as a patentee, his name and his advice and assistance would be useful in bringing out the discovery and giving it celebrity. With these arguments Dr. Morton was satisfied, and consented that Dr. Jackson should be named as a joint discoverer in the patent. Mr. Eddy also advised with Dr. Jackson, who informed him that, “by the laws of the Massachusetts Medical Society, he would be prevented from joining with Dr. Morton, in taking out a patent, as he would be expelled from the association, if he did so. He further stated that he intended to make a professional charge of \$500 for the advice he had given him, and that Dr. Morton had acceded to this; that he did not wish his name coupled with Dr. Morton in any manner; that Dr. Morton might take out a patent, if he desired to do so, and do what he pleased with it.” At a subsequent interview, prior to the 27th of October, Mr. Eddy urged Dr. Jackson to waive his objections to associating with Dr. Morton, as “I was confident that he was mistaken in his views as to what would be the action of the medical association; that Dr. Morton could not properly take out a patent without him; and that by joining in the patent he would, of a certainty, be obtaining credit as a discoverer; whereas, should he not do so, he might lose all credit, as in the case of the magnetic telegraph, which I understood from Dr. Jackson he had suggested to Professor Morse.” The objection as to the medical society was removed, on consultation with Dr. Gould. Dr. Jackson consented to join in the patent, and it was agreed that he should have ten per cent. of the proceeds for his interest in it.

Your committee do not feel that on this question of fact the parties ought to be bound by the legal conclusions of their common friend, Mr. Eddy, or by the papers which they executed in pursuance of his legal advice. But they do consider the communications made by them at the time to Mr. Eddy, the mutual agreement of the parties between themselves, as touching the discovery, and the facts admitted by them on the consultation, as matter of the utmost importance and significance. A voluntary agreement took place between the parties on that day, of which both must have understood the full force and effect, and to which neither seems to have been, or probably could have been, impelled by advice or counsel. It was that the whole right to use the discovery

under the patent should be and was assigned to Dr. Morton, he paying to Dr. Jackson ten per cent. on all sales for licenses.

Your committee cannot here fail to remember the unqualified terms of contempt and reprobation in which Dr. Jackson had, during the preceding part of the month down almost to the very date of this arrangement, spoken of Dr. Morton and his alleged ignorance and recklessness in the use of this agent. They cannot conceive it possible, if he felt himself to be the true discoverer, that he would, by solemn contract, relinquish all power over his discovery, and place it solely in the hands of a man of whom he thought so illy. Dr. Jackson indignantly repels the idea that it was done for the purpose of gain; and we think it could not be the case, as the pittance reserved to him, if he conceived himself the discoverer, was so despicably small. And how could he hope to acquire *fame* by abandoning the most important discovery of the age?—one which, if it were his, and if under the auspices of his reputation, with his skill and science, it were presented to the world, could not fail to place him on the highest scientific and professional eminence. How could he hope to acquire fame by thus surrendering all control over the discovery, and placing it in the hands of such a man as he had represented and still represents Dr. Morton to be?

A careful examination of the above detailed acts and conversations of the parties down to the 27th of October, about which it would seem to your committee there could be no doubt, renders it clear, almost to demonstration, that neither Dr. Jackson nor Dr. Morton, nor any of those who had witnessed or aided in the operations, supposed that Dr. Jackson was entitled to the merit of this discovery, or any other merit than that of having communicated important information to Dr. Morton; and if we trace the conduct of the parties further, this opinion is but confirmed.

On the 7th of November, a capital operation was performed by Dr. Hayward in the hospital, the patient being under the influence of sulphuric ether, administered by Dr. Morton. Dr. Warren being informed by Dr. Jackson that he suggested the use of sulphuric ether to Dr. Morton, invited him to attend and administer the ether. He declined, for two reasons: one was that he *was going out of town*; the other, that he could not do so consistently with his arrangements with Dr. Morton; so the first capital operation, under the influence of ether, was successfully performed, Dr. Jackson not yet thinking fit to attend. But in a communication published in the Boston Daily Advertiser, of March 1st, 1847, he says: "I was desirous of testing the ether in a capital operation, and Dr. Warren politely consented to have the trial made; and its results proved entirely satisfactory, an amputation having been performed, under the influence of the ethereal vapor, without giving any pain to the patient." It strikes the mind with some surprise that Dr. Jackson should claim this operation as an experiment made by him at his request, and to satisfy himself of the efficacy of the "ethereal vapor" in a capital operation, when the only connexion which he had with the operation was to decline attending it when specially invited. Indeed, so entirely did he omit to inform himself on the subject of this experiment, which he declares to be his, that, in the above communication, he names Dr. Warren as the surgeon who performed the operation, which was, in fact, performed by Dr. Hayward.

Another surgical operation was performed at the Broomfield House, on the 21st of November, the ether again administered by Dr. Morton. Dr. Jackson was then present for the first time, on invitation, but merely as a spectator. On the 2d of January, 1847, an operation was performed in the hospital, when Dr. Jackson attended, and brought with him a bag of oxygen gas to relieve the patient from asphyxia, in case it should supervene. Nothing of the kind occurred, and the gas was not used. This is the first and only act of Dr. Jackson's made known to your committee, which implied that he had any duty to perform in the administration of the ether, or that he rested under any responsibility as to its effects.

The testimony of Don P. Wilson and J. E. Hunt, who were assistants in Dr. Morton's shop for a few months, commencing in November, 1846, is adduced to impeach the evidence of Leavitt, Spear, and Hayden, by *their* alleged declarations, and the title of Dr. Morton to the discovery, by his declarations. This is a species of testimony against which the books on evidence especially put us on our guard. It is a sweeping kind of evidence which covers everything; and if the imputed conversation be *private*, or if it be general, (as he often said, or always said,) it is often difficult to subject the evidence to the ordinary tests of surrounding circumstances and inherent probability, so as to fix its value. There is enough, however, in these depositions, to show that they are of but little weight. It is to be remembered, in the first place, that they are in direct contradiction to the testimony of Whitman, Spear, Leavitt, and Hayden, and they contradict by strong implication the testimony of Mr. Mercall and Mr. Weightman, the character of all and each of whom is most satisfactorily vouched. The testimony of these two witnesses cannot be true, unless the four first above named entered into a conspiracy to carry a point by perjury; but, as to them, we have examined their evidence—we have tested it by its agreement with surrounding circumstances, and we are satisfied of its truth.

This of itself would be enough to dispose of the testimony of Wilson and Hunt; but it is proper to look at the inherent character of their evidence.

Wilson, in the commencement of his deposition, *swears*, by way of recital, that Dr. Charles T. Jackson was the discoverer of the application of ether to produce insensibility to pain in surgical operations; and, among other things, he says, "*Morton first claimed the discovery to be his own*" in February, 1847. To say nothing of the looseness and total want of caution with which the fact of the discovery is stated—a fact of which Mr. Wilson certainly had no knowledge whatever—he testifies directly against the recorded fact in the second particular, for Dr. Morton did *claim* the discovery as early as September 30, 1846, and his claim was given to the world the next day in the public prints. *His* claim, and *his* alone, was known to the surgeons of the hospital during the month of October, and his public circulars and the numerous answers to them, which he has exhibited to the committee, show that during all that time, and at all times, he claimed the discovery publicly and to the world as his own. The witness goes on to say: "In the administration of the ether I was guided by and solely relied upon the advice and assurances of Dr. Jackson, received through Morton. *We never dared*

to follow Morton's own directions"—and adds that, if they had, the consequences would probably have been fatal and etherization a failure. And further, that he never knew Morton "*to apply it to a patient in the office.*" This was from a most apparent fear and shunning of responsibility."

Now as to the advice and assurances of Dr. Jackson, alleged to have been received from time to time through Dr. Morton, we have no reason to suppose that any such repeated intercourse and communication took place during that time, and we have no evidence of the actual fact of any such meeting and instructions. On the contrary, there is evidence of unkind feelings existing on Dr. Jackson's part towards Dr. Morton; and in the opinion of your committee the testimony of Dr. Keep *indirectly* contradicts the testimony of Wilson on that point, and *directly* upon each of the other points last named. Dr. Keep's object and the tendency of his evidence is to depreciate Dr. Morton; but for faults the very reverse of those with which he is charged by Wilson, namely, a "*rash recklessness,*" instead of "*a most manifest fear of responsibility,*" in administering the ether; and he evidently is impressed with the belief, and designs to let it be known, that the success of etherization depended upon his skill and prudence. He says "*it was his (Morton's) practice during that time to administer the ether without any adequate provision for the admission of atmospheric air; and whenever operations were performed by other persons in the office, and under his supervision, he directed the application in the same way, in consequence of which many of the operations were unsuccessful, and great distress and suffering were induced.*" Dr. Keep then states that he made ample provision for the admission of atmospheric air, and advised the assistants to do the same thing; but "they being influenced by his (Morton's) directions and known wishes, did not at all times follow my advice." Not a word is said by Dr. Keep of any advice or directions coming from Dr. Jackson, which, if it had actually occurred, must have been known to him, and would have formed an important item in the current incidents of the time. The evidence of these two witnesses stand thus. They were in the office of Dr. Morton, during the same "thirty days," Keep the superior, Wilson the assistant. Keep says Dr. Morton was in the habit of administering the ether in a particular manner, and that he was *rash and reckless*. Wilson says that he never administered it all, and that he was *timid* and shrank from responsibility. But the surgeons of the hospital agree with neither one nor the other, but show that he repeatedly administered it in the hospital *himself*, to their entire satisfaction, and with entire success. Wilson says the assistants in the office would not follow the directions of Dr. Morton, but relied upon such as were brought from Dr. Jackson. Keep says nothing about instructions from Dr. Jackson, but that the assistants in the office were influenced by the directions and known wishes of Dr. Morton, so that his salutary advice and remonstrances were often of no avail. Wilson says Dr. Morton explained to him, an assistant in his office, very fully all the particulars of the discovery and patent; but to Dr. Keep, his partner, he extended no such confidence. We leave these two depositions to be viewed in their strong contrast; and as to the testimony of Don P. Wilson, considering its inherent improbability, the suspicious nature of the species of testimony to which it belongs; the manner in which it is

contradicted directly and indirectly by the evidence of Dr. Keep; and when we further consider that it is directly opposed to the evidence of Whitman, Spear, Leavitt, and Dr. Hayden, and indirectly to that of Metcalf and Weightman; and that it is also in direct conflict with numerous public printed cards and notices of the day, we feel that we cannot give it the slightest weight or consideration.

The testimony of John E. Hunt is subject to the same objections with that of Don P. Wilson, and other objections which your committee will now proceed to notice. In order to bring out a declaration on the part of Spear, that he had never taken the ether, he represents him as taking it one evening, and in the excitement produced by it seizing upon a countryman present, and handling him roughly. The apology which Spear makes to the countryman is, "*this was the first time he had ever taken the ether;*" not that it was the first time ether so affected him, or that the rudeness was committed under the influence of ether, but that it was the first time he had ever taken the ether—a fact which had little to do with the act of rudeness, and was a most irrelevant apology. But the inquiry thereupon made by Mr. Hunt is most remarkably inconsequent; he having heard Spear say that it was the first time he had ever taken ether, asks him if it "ever affected him in the same way before." Now, if he had been pressing Spear with a cross examination, in order to entrap him in some important admission, the inquiry might, perhaps, have been made; but it was *then* a matter of no importance whatever whether Spear had breathed the vapor of ether or not, and it becomes in the highest degree improbable that both branches of the conversation, so inconsistent with each other, actually occurred; and as the statement contradicts the testimony of so many respectable witnesses, and is in itself improbable, your committee do not feel bound to give it credence. Again: in a walk with Spear, Hunt gets from him a full disclosure of the discovery, and a statement that it belonged to Dr. Jackson. According to this, Dr. Morton got the requisite information and instructions from Dr. Jackson; came home; *tried it on a woman, and it worked first-rate*; and he had since then continued to use it under the directions of Dr. Jackson. The evidence shows that Spear well knew that the *experiment* was not tried on a *woman*, but on a *man*, whose certificate was read next day by hundreds in the city of Boston. But the witness evidently took this part of his story from the narrative of Don P. Wilson (whose deposition was taken on the same day) about the refractory female patient named in the conversation with Dr. Jackson on the 30th of September, who was to be cheated with atmospheric air, administered from a gas bag.

From among the thousands with whom Dr. Morton communicated, touching this discovery, during the winter of 1846 and 1847, some six or seven, with whom he had personal controversies, testify to his admissions that he was not the discoverer. They differ as to the degrees of directness and fullness with which he opened the matter to them, but it will be found, as your committee believe, to be a rule in this case, having no exception, that the more violent the hostility of the individual, the more fiercely he assailed Dr. Morton's patent, the more free Morton became in his communication, and the more fully did he unbosom himself; and his statements always went directly to defeat his

own claims, and support the defence of the opponent to whom he made it. For example, H. S. Payne says "that, in the early part of December, 1846, he commenced applying the vapor of ether to produce insensibility to pain in surgical operations. This was after I had heard of the discovery of the preparation by Charles T. Jackson, of the city of Boston." He then states that Dr. Clarke purchased of Dr. Morton a right, under the patent, for Rensselaer and several adjoining counties, who sold to Dr. Bordell and Dr. Payne, was notified by Dr. Blake, as the agent of Dr. Morton, to abandon the use of ether in his practice. After failing in an attempt at negotiation with Dr. Bordell, he went to Boston and had an interview with Dr. Morton, who not once only, but repeatedly, declared that Dr. Jackson was the *sole discoverer*; "that all the knowledge he possessed in relation to its properties and application came from Dr. Jackson, and that he never had any idea of applying sulphuric ether, or that sulphuric ether could be applied for the aforesaid purposes, until Dr. Jackson had suggested it to him, and had given him full instructions." This most frank communication raises at once a difficulty about the patent, which is obviously void if that statement be true; and Dr. Morton attempts to remove it by saying "that he had been very fortunate in effecting an arrangement with Dr. Jackson before any one else had the opportunity, and that he was the first man to whom Dr. Jackson communicated the discovery." And he adds: "Dr. Morton again and again said that he was not in any way the *discoverer of the new application of ether*, but that the idea had been first communicated to him by Dr. Jackson, who was its discoverer, and that his (Dr. Morton's) interest in the patent was merely a purchased one; and, moreover, that he was very lucky in anticipating all other persons by first receiving so precious a discovery from the lips of Dr. Jackson."

After seeing the fullness and unreserved character of this important conversation, and the apparent earnestness with which Dr. Morton attempts to impress the fact that he had no participation whatever in the discovery, not satisfied with suffering it to escape him inadvertently or even stating it once, but repeating it "again" and "again," as if he were anxious to impress it, one could not but be surprised to know that Dr. Payne, before this conversation, had *pirated* this discovery; had set up for himself; bade defiance to Dr. Morton and his assignees; and, on his return home, published a card, in which he by no means denies that Dr. Morton discovered the *thing* which he and his assignees are using, but averring that his (Dr. Payne's) *anodyne vapor*, which in his affidavit he admits to be sulphuric ether, "is not the invention of the great Dr. Morton, but an entirely superior article, and all persons must beware how they infringe on his rights." And the more especially is it surprising when we reflect that this state of facts, which Dr. Morton took such unusual pains to repeat and to impress upon this his most determined opponent, would, if true, render the patent wholly void in his hands, and put his discovery entirely in the power of Dr. Payne, and all others who should see fit to avail themselves of it. There can be no absolute proof that Dr. Morton did not make these statements; but it is clear that it was against his interest to make them; and there is also full proof that they are not true, and that they are in direct opposition to his numerous printed and published statements. They are not true;

for, besides the six witnesses who testify directly or indirectly to the discovery in its inception and progress, it distinctly conflicts with the conversation of the parties, and their mutual understanding, on the 26th and 27th of October, as testified to by R. H. Eddy. It is in direct conflict with the claim promulgated by Dr. Morton, and received and accredited by the scientific gentlemen in the medical hospital, who performed the operations testing the efficacy of the discovery.

Dr. Warren says :

"BOSTON, January 6, 1847.

"I hereby declare and certify, to the best of my knowledge and recollection, that I never heard of the use of sulphuric ether by inhalation, as a means of preventing the pains of surgical operations, until it was suggested by *Dr. W. T. G. Morton*, in the latter part of October, 1846."

And alike opposed to all the numerous printed circulars which Mr. Morton and his agents had distributed and were then distributing in every part of the United States. It appears that prior to this date, Dr. Morton's attention had been called to an opposing claim to the discovery, and to the experiments at the hospital, and he had taken a decided public stand against them, as witness his circular, published the 20th day of November, 1846, and the note thereto attached :

"DENTAL OPERATIONS WITHOUT PAIN.

"*Dr. Morton has made a great improvement in dental and surgical operations*, for which letters patent have been granted by the government of the United States, and to secure which measures have been taken in foreign nations.

"Having completed the necessary preparations for the purpose, and greatly enlarged his establishment, Dr. Morton respectfully announces to his friends and the public that he is now ready to afford every accommodation to persons requiring dental operations.

"His assistants and apartments are so numerous, and his entire arrangements on so superior a scale, that immediate and the best attention can be given to every case, and in every branch of his profession.

"The success of this improvement has exceeded the most sanguine expectations, not only of himself and patients, but of the very skilful and distinguished surgeons who have performed operations with it at the Massachusetts general hospital, and other places in Boston, or witnessed its use at his office. Rooms, No. 19 Tremont Row.

"BOSTON, November 20, 1846.

"* * * Inasmuch as one or two persons have presumed to advertise my improvement *as their own*, and even issued notices to the effect that the applications of it at the hospital were made *by them*, and that the certificates of its efficacy and value were given *to them* by the SURGEONS OF THAT INSTITUTION, I feel it my duty to warn the public against such false and unwarrantable statements; and at the same time to caution all persons against making, aiding, or abetting in any infringement of my rights, if they would avoid the trouble and cost of prosecutions and damages at law."

And your committee do not think it credible that Dr. Morton, resting his claims to the discovery on the grounds which he did—having a most

decided public opinion at home in his favor as the discoverer—having freshly tasted of the intoxicating draught of fame—and recently, in the public papers and in circulars, asserted his authorship of the discovery and defied his rivals—they do not think it credible that he should seize the first occasion which offered, in conversation with a most determined opponent, to declare the falsehood of all that he had written, published, and claimed—to disclaim the honor which the world so generally and freely accorded him—confess away all his pecuniary rights under the patent—and even support his surrender, disclaimer, and sacrifice by a self-debasing assertion which he well knew was false. The improbability is too strong to allow it credit.

But Dr. Payne says, that in the early part of December, 1846, he commenced his operations with sulphuric ether, and that this was after he had heard of the discovery of Dr. Charles T. Jackson, of Boston. How he heard of the discovery of Dr. Jackson he does not say: surely not by the information of the scientific men of Boston, for they attributed the discovery to Dr. Morton; not by the public prints, cards, and advertisement, for the name of Dr. Morton alone appeared there; and he says, in conclusion, that *he was very much astonished* in learning, some time after his visit to Boston, that Dr. Morton “asserted any claim whatever” to the discovery, and this, after the publication and circulation of the notices, cards, and circulars of Dr. Morton, and after the witness had long been engaged in an embittered contest with Morton and his assignees, and the publication of his (Dr. Payne’s) card.*

Dr. Allen Clarke, who also testifies to admissions by Dr. Morton, but much less strongly than Dr. Payne, and whose statement may well be the result of a misunderstanding, made the more decided by hostility to Dr. Morton, and a desire to defeat his patent, was the purchaser of a right, for which he gave his note for \$3,350. He at length determined not to pay the note, but to join in contesting the patent, and he expresses the opinion, that by keeping up the controversy for one year, the patent would be broken down. Dr. Blaisdell says “Clarke would not pay you, for he could get the use of the letheon for one year, before you could get the license from them, and by that time they could ruin the sale of it there,” and he might well have added, and with it the discoverer; a very common fortune to men who render the most important services to their race.

Time, and the reasonable limits of a report, will not allow your committee to dwell upon the few remaining items of kindred testimony. The weight and strength of them have been considered; and the residue, like them, are composed of alleged statements by Dr. Morton to persons with whom he then had, or has since had, personal controversies touching his discovery, and they are all in contradiction to the

* “NOTE.—Dr. Payne has just returned from Boston, and has only time now to give notice to his friends and the public, that in a day or two he will be able to show to the public that the anæsthetic vapor which he has used is not the invention of the great Dr. Morton, but an entirely superior article, and that he shall continue to use it. And all persons must beware how they infringe on his rights.” Extract of a letter of Mr. E. Filley, attorney of Dr. A. Clarke, of Lansingburg, New York, to Dr. Morton’s attorney of Boston.—“As one Dr. H. J. Payne, dentist, of the city of Troy, persists in the use of the apparatus and gas, and proclaims defiance to Dr. Morton and any of his assigns, Dr. Clarke is completely thwarted in his enjoyment of the rights secured to him by Dr. Morton. The conduct of Dr. Payne is particularly annoying.”

claims which Dr. Morton daily promulgated in print to the world. Those printed papers are, as your committee conceive, the best evidence of what Dr. Morton all that time claimed, and what he conceded; they are of the time and of the transaction; they do not admit of misstatement, misconstruction, or falsification; they are of unvarying and exact memory; and they speak the language of undoubted truth as to the claims, though not as to the rights of the author. His claims, contemporaneous with these papers, are what these witnesses attack. His *rights* we have already considered; and, as to the evidence of his *claims*, that which he insisted and said was his, the published papers stand against the testimony of these witnesses, as written or printed evidence against parol. His alleged confessions, made under the most improbable circumstances, are in direct contradiction to his printed circulars, daily and contemporaneously promulgated to the world. If, then, these alleged parol admissions stood against the printed and published papers, without anything beside to add strength to either, we could not, in our conscience, in weighing the conduct of men by rational probabilities, hesitate to give the decided preponderance to the printed over the parol evidence. But the parol evidence runs counter to all the leading facts in the case heretofore considered and established, in the opinion of your committee, by the most indubitable proof, while the printed circulars and notices entirely agree with them, and make with them one uniform and consistent whole. The objects of the parties, their claims, their efforts, their purposes, the same throughout. The deposition of A. Blaisdell is, however, worthy of especial comment. At the time he professes to have had the conversation in which Dr. Morton accords all the merit of the discovery to Dr. Jackson, he was the agent of Dr. Morton, spreading his circulars throughout the land; had taken care to send one of them to each and every surgeon dentist in New York; and yet now declares that he was especially charged with the information which he takes care to inculcate, that these circulars were all false in the most material point, and that the patent which he is selling is void by reason of that falsehood.* He was at the same time in habits of almost daily correspondence with Dr. Morton; and the difficulties which he met with occurred while he was absent, and it would most naturally have suggested itself to him to communicate them to Dr. Morton by letter, and in that way get his assent to obviate them by declaring Dr. Jackson the *sole discoverer*. But he does not do so; if he had, his letter and Dr. Morton's answer would have been in writing: and, then, if there were truth in the statement of those alleged admissions, there would have been one item of written evidence to support them. But this is wholly wanting. Blaisdell professes to have waited till his return to Boston, and then to have held a private conversation with Dr. Morton, who at once and eagerly admitted away his *whole claim*, both to money and reputation.

*Extract from A. Blaisdell's letter to Dr. Morton, dated New York, December 29, 1846.—
 "I am sending one of your circulars to every dentist in New York."

New York, December 31, 1846.—"I have sent a circular to every dentist in New York city, and written on the cover where I am to be found."

In a letter from Pittsburg, dated February 1, 1847, he writes: "I gave him a few circulars to give his neighbors." Remarks to the same effect occur in other letters.

October 26, 1846.—Dr. Morton has discovered a compound, by inhaling which, a person is thrown into a sound sleep, and rendered insensible to pain, &c.

It is remarkable that, in more than three months, during all which time these witnesses say Dr. Morton conceded to Dr. Jackson the merit of being the "sole discoverer," and during all which time he was daily writing and almost daily publishing, there is not produced one line written by Dr. Morton, or written to him, countenancing the idea; nor is there one act of his which looks to such admission. A written admission, or an ambiguous paragraph in writing, which could be fairly construed into an admission, or a letter written to him during that time, which could be reasonably construed to refer to such admission, would be tenfold the value of all the parol testimony now presented, or those admissions. Dr. Morton has shown to the committee several bound volumes of letters addressed to him upon this subject, all of which recognise him as the discoverer. Viewing these statements in this point of light, comparing them with the printed and published papers,* in which Dr. Morton contemporaneously and continually asserted his claims to the discovery, and finding them opposed, as they are, to the well settled facts of the case already considered, they weigh, in our opinion, as dust in the balance, and in no wise affect the well settled facts of the case.†

Considering the case presented on its own merits, and independent of any authority whatever, your committee has come to the same conclusion that was arrived at by the board of trustees of the Massachusetts general hospital, at their annual meeting in January, 1848, and subsequently confirmed in 1849; and they cannot better state the propositions, which they consider established, than by adopting, to this extent, the language of the report of that institution. It is as follows: "1st. Dr. Jackson does not appear at any time to have made any discovery, in regard to ether, which was not in print in Great Britain some years before. 2d. Dr. Morton, in 1846, discovered the facts, before unknown, that ether would prevent the pain of surgical operations, and that it might be given in sufficient quantity to effect this purpose without danger to life. He first established these facts by numerous operations on teeth, and afterwards induced the surgeons of the hospital to demonstrate its general applicability and importance in capital operations.

* "To the public.—Dr. Morton, surgeon dentist, No. 19, Tremont Row, Boston, her by gives public notice that letters patent have been granted him by the Government of the United States for his improvement, whereby pain may be prevented in dental and surgical operations."—*Boston Evening Transcript*, November 20, 1846.

"Important information for the public at large.—I do hereby give this public notice, and warn all persons against using my invention." "I am particularly desirous that my invention should not be abused or entrusted to ignorant or improper hands, or applied to nefarious purposes."

"New York Express, Baltimore Patriot, United States (Philadelphia) Gazette, will please insert the above twice every week for four weeks, and send their bills to this office." *In same paper* December 4, 1846.

† In answer to a communication by Dr. J. F. Flagg, in which he threatens to take possession of the invention, and in which he attributes the credit of it, if there was any, to Dr. C. T. Jackson, Dr. Morton says: "Unless he can show—and I do not know any body else that can—that (to use his own words) it has been known and published for some years that the vapor of sulphuric ether would produce the visible effects now said to be discovered, then the invention is original."—*Boston Evening Transcript*, December 10, 1846.

In a letter from Dr. Wells (*Boston Post*, April, 1847,) he makes the following extract from Dr. Morton's letter to him in the early part of October, 1846: "The letter which is thus introduced with my signature, was written in answer to one which I received from Dr. Morton, who represented to me that he had discovered a compound."

3d. Dr. Jackson appears to have had the belief that a power in ether to prevent pain in dental operations would be discovered. He advised various persons to attempt the discovery; but neither they nor he took any measures to that end; and the world remained in entire ignorance of both the power and safety of ether until Dr. Morton made his experiments. 4th. The whole agency of Dr. Jackson in the matter appears to consist only in his having made certain suggestions, which led or aided Dr. Morton to make the discovery—a discovery which had for some time been the object of his labors and researches.”

And although your committee have deduced their conclusions from the evidence, without resting on opinion or authority, they are greatly strengthened by the concurrence of that highly intelligent and scientific body of men who examined the subject on the spot, while the transaction was yet recent, and who were acquainted with the conduct of the parties during the progress of the discovery, and with the character of the witnesses. This conclusion being reached as to the exact state of fact, your committee are satisfied thereon that Dr. Morton is entitled to the merit of the discovery. *The great thought was of producing insensibility to pain, and the discovery consisted in that thought, and in verifying it practically by experiment.* For this the world is indebted to Dr. Morton; and even if the same thought, in all its distinctness and extent, arose also in the mind of Dr. Jackson, at or prior to that time, yet he did not carry it out by experiment, and thus give it to the world; and on that supposition, it was the case of an important thought occupying two minds at the same time, one only of whom brought it out by experiment, and is therefore the discoverer. It was clear that the discovery was destined soon to be given to the world. Science had almost reached it; but a single step and it was compassed; and it happened in this case, as in many others, that the necessities of the profession, and a want deeply felt in the daily business of life, rather than scientific induction, at last produced the consummation.

*That it is a discovery we cannot doubt; that it is an advance beyond the heretofore known walks of science, we know; and scientific men of all civilized nations, even to the extremities of the earth, acknowledge and proclaim it.**

As to the question whether a sum of money shall be appropriated by Congress as a reward for this discovery, your committee beg leave to refer that subject to the consideration of this House. Numerous cases, however, have occurred, to which your committee beg leave to refer, in which compensation, in money, has been made by Congress as a reward for like discoveries of less importance to the country and mankind, namely:

Patents purchased.

Tucker and Judge, for the construction of anchors for the navy, (Statutes at Large, vol. 6, page 659,) \$1,500.

Heirs of Daniel Pettibone, for the use of the circular bullet-moulds (Statutes at Large, vol. 6, page 833,) \$5,000.

* Dr. Morton has exhibited to the committee a large pile of original letters, showing that in the fall of 1846, immediately after his discovery, he sent agents with apparatus to nearly all the hospitals in the United States, to promulgate and extend the use of the ether gratuitously.

Doyd Reilly, for the use of the gas in vapor baths, (Statutes at Large, vol. 6, page 904.) \$5,000.

William H. Bell, for elevating heavy cannon, and for pointing the same, (Statutes at Large, vol. 5, page 126.) \$20,000.

— Babbitt, for the right of use of the patent anti-attrition metal, (Statutes at Large, vol. 5, pages 547 and 636.) \$20,000.

Heirs of Robert Fulton, for the great benefits conferred upon the country by his improvements in navigation by steam, (1st Session Laws, 29th Congress, page 102.) \$76,300.

Anne M. T. Mix, widow of M. P. Mix, for the purchase of Mix's manger stopper, (Session Laws, 1st session 29th Congress, Page 130,) \$3,000.

Appropriations for experiments to test patents.

Samuel Colt, sub-marine battery, (Statutes at Large, vol. 5, page 584.) \$15,000.

Sarah F. Mather, submarine telescope, (Statutes at Large, vol 5, page 667.) \$2,000.

Samuel F. B. Morse, electro-magnetic telegraph, (Statutes at Large, vol. 5, p. 618.) \$30,000.

For testing inventions for preventing explosions of steam boilers, (Statutes at Large, vol. 5, page 793.) \$5,000.

— Earle, for the preservation of canvass, (Session Laws, 2d Session, 29th Congress, page 87,) \$5,000.

Uriah Brown, steam fire-ships and shot-proof steamships, (Session Laws, 2d session 29th Congress, page 93.) \$10,000.

James Crutchett, for testing solar-gas light and erecting fixtures, (Session Laws, 2d session 29th Congress, page 162,) \$18,500.

— Isherwood, to test light for light-houses, (Session Laws, 1st session 30th Congress, page 192,) \$6,000.

This discovery is the long sought desideratum of surgeons. His sinking heart, when witnessing the writhings and agonies of his patients, has looked to this as a consummation devoutly to be desired. Various narcotics have been employed. Mesmerism and its kindred neurology, were tendered as this great boon; but they have passed, and with them the expectations of the profession, and the promises of their discoveries. Dr. J. C. Warren, page 3, in his work on etherization, says: "A new era has opened on the operating surgeon! His visitations on the most delicate parts are performed not only without the agonizing screams he has been accustomed to hear, but sometimes with a state of perfect insensibility, and occasionally even with the expression of pleasure on the part of the patient. Who could have imagined that drawing a knife over the delicate skin of the face might produce a sensation of unmixed delight? That the turning and twisting of instruments in the most sensitive bladder might be accompanied by a beautiful dream? That the contorting of ankylosed joints should co-exist with a celestial vision? If Ambrose Pare, and Lovier, and Desault, and Chesselden, and Hunter, and Cooper, could see what our eyes daily witness, how would they long to come among us, and perform their exploits once more.

"And with what fresh vigor does the living surgeon, who is ready to resign the scalpel, grasp it, and wish again to go through his career under the new auspices!"

We quote also from the same: "In order to form a proper estimate of the value of the new practice, we should endeavor to realize the mental condition which precedes a surgical operation. As soon as the patient is condemned to the knife, what terrors does his imagination inflict! How many sleepless nights, and horrible dreams, and sinkings of the heart, does he experience! What apprehensions of dangerous bleedings, of wounds of vital parts, and even of sudden death does he paint to himself! And when to these is added the dread of insupportable pain, what a frightful picture presents itself to the mind! No wonder that many persons are unable to bring themselves to submit; no wonder that some, wrought to desperation, are led to anticipate their sufferings by a voluntary death. Horror of the knife led a gentleman in this city, afflicted with a stone in the bladder, to commit suicide. When the terror of corporeal suffering is taken from this load of apprehension, the patient may indulge a hope which leads him cheerfully to uncertain dangers."

In reply to communications addressed the Surgeon General of the Army, and Chief of the Medical Department of the Navy, we learn that chloroform or ether are used in both these departments, and that they constitute in part the supplies for the service, and have been used during the recent war with Mexico. This would, in justice, entitle the memorialists to compensation, as the laws of the United States guaranty to him all benefits in its use by all persons. Had we not already exceeded the usual limits of a report, we would gladly introduce numerous testimonials of the advantageous use of anæsthetic agents in various diseases, besides those subject to surgery.

The effects of chloroform and ether are similar, each have their advocates, yet your committee are assured that amongst the hundreds of thousands of cases of various diseases in which ether has been used, no case has terminated fatally, in which any injurious effect could be traced to ether. We cannot assert the same for chloroform. The effects of ether are more readily controlled, and its strength is supposed to be but one-tenth that of chloroform.

As citizens of the United States, we feel we have just cause of pride that this discovery, the most important in science, had its origin on our shores, and that its general adoption by the European world, numerous admissions of the discovery here and its usefulness, are alike honorable to the recipients of its favors and the discoverer. Professor Simpson, the discoverer of chloroform, in transmitting to Dr. Morton a copy of a pamphlet entitled "Account of a new anæsthetic agent, as a substitute for sulphuric ether in surgery and midwifery," writes the following note:

MY DEAR SIR: I have much pleasure in offering for your kind acceptance the accompanying pamphlet. Since it was published, we have had various other operations performed here, equally successful. I have a note from Mr. Liston, telling me also of its perfect success in London. Its rapidity and depth are amazing.

In the "Monthly Journal of Medical Science," for September, I have a long article on etherization, vindicating your claim over those of Jackson.

Of course, the great thought is that of producing insensibility, and for

that the world is, I think, indebted to you. I read a paper lately to our society, showing that it was recommended by Pliny, &c., in old times.

With great esteem for you, allow me to subscribe myself,

Yours, very respectfully,
J. Y. SIMPSON.

EDINBURGH, November 19, 1847.

We close our communication with an extract from the work on etherization, by Dr. J. C. Warren, a name confessedly among the first in the United States in the department of medicine and surgery. "This discovery certainly merits a notice from the American Legislature, since it may take rank, perhaps, of all the great improvements which adorn the present age of surgery. The establishment of union by the first intention, the safe ligature of the great arteries, the substitution of lithotritry for lithotomy, the rejection of pernicious ointments and plasters in the management of wounds, the constitutional treatment of local diseases, and the free external use of cold water, mark the present as the golden period of surgical science.

"The introduction of ether, enabling us to perform operations and apply remedies without pain, crowns all these improvements.

"While we would pay a willing and liberal tribute to the individual who has been made the instrument of this discovery, we should look higher for its author, and elevate our fervent attributions of praise and thanksgiving to *Him* who has been pleased, from the rich treasures of His goodness, to confer so wonderful a gift on our generation."

The subjoined resolutions were ordered to be appended to the report.

Dr. Lord offered the following resolutions, which were adopted :

Resolved, That the committee having refused to recommend any remuneration to be given to the contestants of the ether discovery, the report of the committee be made in conformity to the above decision.

Resolved, That believing the report of the chairman does fairly express the opinions of the committee, and the real views as embodied in the resolutions of Dr. Fries, herewith published, it is herewith adopted as the report of the committee.

Dr. Fries offered the following resolutions, which were adopted :

Resolved, That, in the opinion of this committee, to Dr. C. T. Jackson is due the credit of having suggested to Dr. W. T. G. Morton that pure sulphuric ether might be inhaled with safety, and that the effect of such inhalation is to produce insensibility; but that, in expressing this opinion, the committee do not wish to convey the idea that Dr. Morton had not previously experimented with this important agent, but refer to the strong proof herewith published, for the evidence that he had thus experimented.

Resolved, That to Dr. W. T. G. Morton is due the credit of having made the first practical application of sulphuric ether as an anæsthetic agent, and demonstrating to the world its power to destroy nervous sensibility to such an extent as to enable surgeons to perform all the various surgical operations upon the human body without pain.

Resolved, That this committee not having employed a clerk, and has therefore not kept a journal of its proceedings at its various meetings, other than what appears on the face of, and published with the report, their proceedings having been informal; therefore, be it—

Resolved, That, for the reasons above set forth, we dispense with publishing any thing purporting to be a journal of proceedings at their various meetings.

NOTE.—During the preparation of this report there was forwarded to the committee the affidavit of Henry C. Lord, one of the counsel for Dr. Jackson, and also the affidavit of George H. Palmer, and one by Dr. Jackson himself, from which it appears that Mr. Lord, the counsel, called upon Thomas R. Spear—induced Spear to visit him at his chamber, and held a conversation with him, and that his effort in that conversation was to get some admission from Spear that his testimony, given under oath in the case, was untrue. Lord and Palmer say that he did so admit. The witness Spear, who was afterwards called upon, testifies that he *did not*, and states facts which show an effort to entrap him in a mode not usually practised by the legal profession in the United States. Your committee give no weight to the alleged statements, considering the manner in which they were procured, even as stated by Mr. Lord himself. There was a like attempt to get a contradictory statement from Leavitt, similar in its character with that made with Spear, but more strongly marked by professional irregularity. These depositions in no respect modified the opinion of your committee as to the facts given in question, and only presents another most striking example of the caution with which testimony of the declaration of parties and witnesses should be received unsupported, and especially when contradicted by written papers.

There was also forwarded to us the deposition of N. C. Keep, which is in the following words:

COMMONWEALTH OF MASSACHUSETTS, *Suffolk, ss.*

I, N. C. Keep, M. D., of Boston, in the county of Suffolk, and commonwealth of Massachusetts, dental surgeon, being called upon by the Hon. Thomas O. Edwards, chairman of a committee at Washington, on patenting compound medicines, to give my testimony in the matter in hearing concerning the claims of Dr. W. T. G. Morton as the discoverer of etherization, depose as follows:

I became associated in the business and practice of dentistry with Dr. Morton on the twenty-eighth day of November, in the year 1846. On the next day we were about to prepare an advertisement for publication, when Dr. Augustus A. Gould called at our rooms. Being pressed with business, I requested him to write the advertisement, with which request he complied. After he had written it, which he did at his own house, he brought it to me, and we read it together. In it the discovery of etherization, without any suggestion having been made by me to that effect, was ascribed in explicit terms to Dr. Charles T. Jackson. Dr. Gould pointing with his finger to the words in which this ascription was expressed, said to me “that will please Jackson.” I then showed the advertisement to Dr. Morton, and we read it together. He then exclaimed, with emphasis, “that is good; I like that. I’ll take it to the printer.” Copies of the advertisement were made under the direction of Dr. Morton, and, as I supposed at the time, without alteration, and published by his order in three evening newspapers. On seeing the

advertisement in the Evening Traveller, on the evening of the same day, I was greatly surprised to find that the words which ascribed the ether discovery to Dr. Jackson had been struck out. The next morning I called the attention of Dr. Morton to the fact, and asked him why he struck out those words. He hesitated, and seemed not to know what to say, when I said to him: "Morton, why do you quarrel with Jackson? You injure yourself, and injure the cause." His reply was: "I would'nt if he would behave himself. The credit of the discovery belongs to Dr. Jackson; Jackson shall have the credit of it; I want to make money out of it."

I stated the foregoing facts to my family on the aforesaid evening, and afterwards to other individuals. I have heretofore declined voluntarily testifying to them, but consider that I have no right, upon a call of such a nature as is now made upon me, to withhold the testimony.

N. C. KEEP.

Boston, *February 8, 1849.*

When this deposition was received, the chairman of your committee showed it to Dr. Morton, who in a few minutes brought to him a bound book entitled "Miscellaneous Notes." On the 91st page was a manuscript in the handwriting of Dr. A. A. Gould, written evidently on the outside sheet of a letter addressed to Dr. A. A., and post-marked "Washington city, D. C., July 9," from all which it was most manifest that this was the original draft of the advertisement testified to by Dr. Keep. This paper contrasted with the evidence of Dr. Keep as the contents of an original draft, fixes in the minds of your committee the just value of this species of evidence. This paper is as follows:

"The subscribers, having associated themselves in the business of dental surgery, would respectfully invite their friends to call on them at their rooms, No. 19, Tremont Row; they confidently believe that the increased facilities which their united experience will afford them of performing operations with elegance and despatch, and the additional advantage of having them performed without pain, by the use of the fluid recently invented by Doctors Jackson and Morton, will not only meet the wishes of their former patients, but secure to them additional patronage."